IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

WRIT PETITION NO. 451 OF 2006

Ramchandra Mane and Ors. ...Petitioner

vs.

M/s. Hillson and Dinshaw Ltd

....Respondents

K.P. Anilkumar for the petitioner.

N.M. Makander a/w. P.N. Shastri for Respondent no.1.

CORAM: S.U. KAMDAR, J.

DATED: 20TH MARCH,2006.

P.C. :

1. The present petition challenges the order passed by the Central Government Industrial Tribunal dated 30.11.2005. The reference made by the workers under Section 10 of the Industrial Dispute Act 1947 seeking reinstatement with full back wages has been rejected.

2. While rejecting the application the CGIT has given a finding that the reinstatement which is sought by the petitioner workmen cannot be granted because under the provisions of the Bombay Dock Workers (Regulation of Employment) Scheme 1956 which is framed for the purpose of workers in a dock areas a worker is required to be registered with the Bombay Dock Board before he can be permitted to work in the Dock Area and unless such person is registered he cannot be permitted to work in the said dock area. It is the case of the respondent employer that the petitioners workmen were not registered under the said scheme. There is no dispute to this aspect as the petitioner also admits that their employment was not registered with the Bombay Dock Board. The respondent company also contends that the petitioner workmen were given work permit only for the purpose of carrying out emergency work and they are not the regular employee of the respondent company.

3. On the other hand the learned counsel for the petitioner contends that the petitioner workmen were

also carrying out other work apart from the work in the dock area. He further contends that the tribunal ought to have gone into the question whether the workmen should be reinstated even if they are not not registered with the Dock Labiour Board at least inrespect of other work carried out by them as the employees of the respondent company. He further contends that the petitioner workmen were carrying out other activities apart from the dock work area because the respondent company is a transport company.

4. In so far as aforesaid contentions are concerned in my opinion in view of the admission that the petitioner workmen were not duly registered as required under the scheme which has been formulated pertaining to the Act, the finding given by the Industrial court that the employment of the petitioner is illegal and cannot be reinstated cannot be faulted with. However on the second issue that the petitioners were carrying out work in other field and in other areas also the workmen petitioners were not able to prove anything nor he has able to produce any material of any nature whatsoever either before CGIT

or before me to establish that they were carrying activities of employment otherwise than in dock area and thus their service should be reinstated. In that light of the fact the impugned order passed by the Industrial Court does not require any interference under Article 226 of the Constitution of India. Petition fails and the same is rejected.

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